

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No.: 3:05-CR-112
)	(VARLAN/SHIRLEY)
MELVIN DAVIS,)	
)	
Defendant.)	

ORDER

This criminal case is before the Court for consideration of the Report and Recommendation entered by United States Magistrate Judge C. Clifford Shirley Jr. on March 24, 2006 [Doc. 78]. There have been no timely objections to the Report and Recommendation, and enough time has passed since the filing of the Report and Recommendation to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); Fed. R. Crim. P. 51. Magistrate Judge Shirley concluded that, based on the totality of the circumstances, defendant was able to voluntarily, knowingly, and intelligently waive his Miranda rights; and that defendant waiver as well as his resulting statements “were the product of both an uncoerced choice and the requisite level of comprehension.” Doc. 78 at 18. Consequently, Magistrate Judge Shirley recommended that the Court deny defendant’s motion to exclude defendant’s alleged confession [Doc. 61].

The Court has carefully reviewed this matter, including the underlying pleadings. *See* Docs. 61, 73. The Court is in agreement with Magistrate Judge Shirley’s recommendation,

which the Court hereby adopts and incorporates into its ruling. Accordingly, defendant's motion to exclude defendant's alleged confession [Doc. 61] is **DENIED**. The Court **ACCEPTS IN WHOLE** the Report and Recommendation.

IT IS SO ORDERED.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE